S.B.CRIMINAL REVISION PETITION NO.1096/2006
(Smt. Kamla Devi Vs. Chunni Lal & Ors.)

Date of order : 07.03.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Surendra Surana, for the petitioner.
Mr. Sudhir Tak, for the non-petitioner No.1.
Mr. JPS Choudhary, Public Prosecutor.

Heard learned counsel for the petitioner, learned Public Prosecutor and the learned counsel for the non-petitioner No.1 and perused both the impugned orders passed by trial court.

It is contended by the learned counsel for the petitioner that the order dated 25.8.2005 passed by the learned trial court for framing charge against the non-petitioner No.1 was challenged by way of revision petition. The said revision petition was filed on 14.9.2005 before District & Sessions Judge, Jodhpur. Thereafter, the said revision petition was transferred to the Additional District & Sessions Judge, No.2, Jodhpur. On 26.9.2005, the notices were issued to the petitioner, who was arrayed as non-petitioner No.2 in the revision petition. Learned counsel for the petitioner has placed before this Court the certified copies of order-sheets of various dates including the order-sheet dated 26.9.2005 whereby notice was issued to the petitioner, who was

arrayed as non-petitioner in the revision petition filed before the District Judge. Notice was also issued to the petitioner by the Addl. District & Sessions Judge No.2, Jodhpur. However, on 1.10.2005, it was prayed by the learned counsel appearing on behalf of non-petitioner – Chunni Lal before the revisional court that by mistake the petitioner herein was arrayed as non-petitioner before the revisional court, therefore, her name may be deleted from the array of non-petitioners. The said prayer was accepted by Addl. District & Sessions Judge No.2, Jodhpur and the name of petitioner herein was ordered to be deleted from the array of non-petitioners. Though, the notice was previously issued to her. Thereafter, the matter was finally decided just after two days and the revision petition was decided in absence of the petitioner, who was arrayed as party before the revisional court.

In the present case, the petitioner was impleaded as party respondent in the matter and notice was also issued to her. However, the Addl. District & Sessions Judge No.2, Jodhpur without any application having been moved on behalf of any of the parties ordered to delete the name of petitioner herein from the array of respondents, that too, without assigning any reasons. The Addl. Sessions Judge No.2, Jodhpur has committed illegality while deleting the name of petitioner from the array of respondents.

In the interest of justice while setting aside the order dated 3.10.2005 passed by Addl. Sessions Judge No.2, Jodhpur, the case is remitted back to him with a direction to decide the same afresh after hearing both the parties. The revision petition is disposed of accordingly.

(GOPAL KRISHAN VYAS) J.

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